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Attorneys for Defendant, Politz Enterprises, Inc.

POLITZ ENTERPRISES, INC.,

Plaintiff,

 V_1

EVANSTON INSURANCE COMPANY,
MARKEL SERVICE, INCORPORATED. ,
AMWINS ACCESS INSURANCE SERVICES,
LLC. , ABC INSURANCE COMPANY, 123
THIRD-PARTY ADMINISTRATOR, said
entities being fictitious entities of unknown
Liability Insurance Carriers or Claims Service
Providers.

Defendants.

and

MORGAN PROPERTIES MANAGEMENT
COMPANY, LLC, EAST COAST
ELMWOOD VILLAGE, LLP, FINCOR,
CONSTRUCTION, INC.,
LIFETIME CONTRACTOR CORP.,
EMERSON ROCHA
SOWERS CONSTRUCTION, LLC, JASON
SOWERS DILAN CONSTRUCTION, LLC,
OSMAN INESTROSA, NORTH AMERICAN
CONSTRUCTION.

Interested Parties/
Defendants.

UNITED STATES DISTRICT COURT
FOR NEW JERSEY

3:25-cv-01919-ZNQ-JTQ

Civil Action

**AMENDED
DECLARATORY JUDGMENT
COMPLAINT**

Plaintiff, Politz Enterprises, Inc, by way of Declaratory Judgement Complaint against defendant, Evanston Insurance Company, Markel Service, Incorporated. , Amwins Access Insurance Services, LLC. , ABC Insurance Company, 123 Third-Party Administrator, said entities being fictitious entities of unknown Liability Insurance Carriers or Claims Service Providers, says:

FACTS COMMON TO ALL COUNTS

1. Politz Enterprises, Inc. (plaintiff) is a company which provides, inter alia, construction and roofing services.

2. Lifetime Contractor Corp., is a construction/carpentry company which performs subcontracted construction/carpentry work.

3. Evanston Insurance Company, Markel Service, Incorporated. , Amwins Access Insurance Services, LLC. , ABC Insurance Company, 123 Third-Party Administrator, said entities being fictitious entities of unknown Liability Insurance Carriers or Claims Service Providers are liability insurance carrier and/or claims administration which provides commercial general liability insurance to Politz Enterprises Inc. under policy no. 3AA374897.

4. Plaintiff, Politz Enterprises, Inc., contracted to perform construction services to property owned and/or managed by Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP. Further, Plaintiff subcontracted some of that work to Lifetime Contractors. **(Exhibit A, Contracts- Master Subcontractor Agreement Dated February 17, 2020, and Independent Contractor Agreement Dated October 2, 2020)**

5. Politz Enterprises, Inc. has been named as a defendant in a lawsuit arising out of an event that occurred on October 24, 2020. **(Exhibit B, Carcamo lawsuit)**

6. Politz Enterprises Inc. was also named as a Third Party Defendant for contractual Insurance claims by defendants, Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP to which plaintiff, Politz Enterprises, Inc., filed an Answer **(Exhibit C, Answer to 3rd party Complaint)**

7. Demand for a defense and indemnity of Politz Enterprises, Inc. was made to its liability carrier and its servicing agents, defendants Evanston Insurance Company, Markel Service, Incorporated. , and Amwins Access Insurance Services, LLC. . That claim was denied by the defendants **(Exhibit D – denial of claim dated January 23, 2023)**

8. Further demand and tender was made by Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP to defendants, Evanston Insurance Company, Markel Service, Incorporated. , and Amwins Access Insurance Services, LLC. for contractual coverage including defense and indemnity required under the terms of the contract between Politz Enterprises and those entities. That claim was also denied. **(Exhibit E, August 6, 2024 Denial of Morgan Property tender claim)**

COUNT ONE – BREACH OF CONTRACT FOR DEFENSE AND INDEMNITY

1. Politz Enterprises, Inc. expected and intended that it would be protected, defended and indemnified as an insured for any and all claims arising out of the contractual work at the Morgan Properties/Elmwood Village project by virtue of its status as an insured under the policy issued by defendants Evanston Insurance Company, Markel Service, Incorporated. , Amwins Access Insurance Services, LLC. .

2. Evanston Insurance Company, Markel Service, Incorporated. , Amwins Access Insurance Services, LLC. wrongfully denied coverage to Plaintiff while asserting various exclusions and policy language unrelated to the allegations asserted by the plaintiff Carcamo in his Complaint.

3. Evanston Insurance Company has failed to provide defense or agreed to indemnify as required by its insurance agreement/contract and is therefore in breach of said agreement/contract.

WHEREFORE, Politz Enterprises, Inc. demands judgment in the form of a declaration that Evanston Insurance Company, Markel Service, Incorporated. , Amwins Access Insurance Services, LLC. must provide a defense and indemnity pursuant to the contract of insurance (policy no. 3AA374897) to Politz Enterprises, Inc., and compensatory damages including interests and counsel fees and costs herein, pursuant to the Uniform Declaratory Judgment Act, N.J.S.A. 2A:16-51, *et seq.*

COUNT TWO – BREACH OF CONTRACT FOR FAILURE TO ACCEPT TENDER

1. Politz Enterprises, Inc. repeats and reasserts the allegations of Count One as if fully set forth at length herein.

2. Politz Enterprises, Inc. obtained and paid premiums to defendants with the expectation and intent that Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP would be provided a defense and indemnity under the ‘Additional Insured; and ‘Insured Contract’ provisions of the policy issued by and serviced by defendants.

3. Defendants’ failure to honor the ‘tender’ of Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP is a breach of plaintiff’s contract of insurance with defendants and has and will cause damages to plaintiff.

WHEREFORE, Politz Enterprises, Inc. demands judgment in the form of a declaration that Evanston Insurance Company, Markel Service, Incorporated. , and Amwins Access Insurance Services, LLC. must provide a defense and indemnity pursuant to the contract of insurance (policy no. 3AA374897) to Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP and compensatory damages including interests and counsel fees and costs herein, pursuant to the Uniform Declaratory Judgment Act, N.J.S.A. 2A:16-51, *et seq.*

COUNT THREE - 17B:30-13.1 - UNFAIR CLAIM SETTLEMENT PRACTICES

1. Politz Enterprises, Inc. repeats and reasserts the allegations of Count One and Count Two as if fully set forth at length herein.

2. Evanston Insurance Company, Markel Service, Incorporated. , and Amwins Access Insurance Services, LLC. wrongfully denied coverage to plaintiff and wrongfully denied a tender by Morgan Properties Management Company, LLC, East Coast, Elmwood Village, LLP, by violating sections of N.J. Admin. Code § 11:2-17.1 *et seq.*, including but not limited to, 17.5, 17.6 and 17.10.

3. As a result of these violations, plaintiff has been and will continue to incur damages.

WHEREFORE, Politz Enterprises, Inc. demands judgment in the form of a declaration that Evanston Insurance Company, Markel Service, Incorporated. , and Amwins Access Insurance

Services, LLC. must provide a defense and indemnity pursuant to the contract of insurance (policy no. 3AA374897) to Politz Enterprises, Inc, and compensatory damages including interests and counsel fees and costs herein, pursuant to the Uniform Declaratory Judgment Act, N.J.S.A. 17B:30-13.1, *et seq.*

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1, the undersigned is hereby designated trial counsel in reference to the above matter.

CERTIFICATION

I do hereby certify that this pleading was served within the time period allowed under the Rules.

I do further certify that based upon the information currently in my possession, the matter in controversy is the subject of another action entitled Carcamo vs. Morgan Properties et al., bearing Docket No.:MER-L-1819-22. At this time, I know of no other person who should be joined in this action. This information is supplied in accordance with Rule 4:5-1.

SELLAR RICHARDSON, P.C.

Attorneys for Plaintiff, Politz Enterprises, Inc.

BY: SHAWN R. STOWELL
SHAWN R. STOWELL

Dated: 4/23/2025